

Certificate of Transmission

I, the undersigned, hereby certify that this correspondence along with other possible documents has been electronically transmitted to the USPTO through its own EFS filing system on January 4, 2010.

Typed Name: Kevin D. McCarthy
Date: January 4, 2010

0-05-037 (17551/US/04)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Sonnenschein
Serial no.: 10/526,845
Filing Date: April 27, 2007
I.A. Filing Date: February 15, 2005
Submitted: March 3, 2005
Title: A STAPLING DEVICE
Examiner: Lindsay Low
Art Unit: 3721
Confirmation: 9356

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Response and Amendment

This response is in reply to the office action mailed on October 5, 2009.

Amendments to the claims: Attached is an amended claim set that merely alters the phrase "the upper level" to "an upper level" and "the lower level" to "a lower level." Support for the amendments to claim 1 can be found at paragraph 42 wherein it was written:

[0042] Referring to the figures, it can be seen that the curved surface of the cartridge 40 that faces the anvil 42 comprises two levels. Upper level 50 comprises two sections that are located at the proximal and distal ends of cartridge 40 and lower level 52 is located in the center of the cartridge above the array of staples. The lower level 52 has a length L, a little longer than the width of the anvil face (see FIG. 3) in order to accommodate the layers of tissue that are compressed between them. Shown in lower level 52 are the slots 44 through which the staples 24 of the array are ejected and the two bores 46 with their beveled entrances 48 into which the locking screws enter. The interfaces between the two sections of upper level 50 and lower level 52 are the two sloping walls 54.

Accordingly there is antecedent basis for the use of upper and lower levels in the specification.

1. Claim Rejections – 35 USC § 103(a): The examiner has rejected claims 1,2, 6,7, 9, and 10 as being unpatentable over Sonnenschein (US 2001/0056282) in view of Jankowski (US 2004/0004105) and further in view of Bolanos (US 5,897,562).

A. Claim one comprises limitations to specific and unique structural features of the cartridge surface that are neither found nor contemplated in the teachings the cited prior art references either taken singly or in combination.